

HOUSE BILL 824

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2003 Regular Session
(3r1519)

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by **Delegates Mandel, Benson, Goldwater, Hubbard, and V. Turner**
V. Turner, Hurson, Hammen, Boutin, Bromwell, Costa, Donoghue,
Elliott, Haynes, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks,
Pendergrass, Redmer, Rosenberg, Rudolph, Smigiel, and Weldon

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Assisted Living Facilities - Certification - Third Party Accreditation**
3 **Programs and Managers**

4 FOR the purpose of ~~requiring~~ authorizing the Department of Health and Mental
5 Hygiene to ~~establish and enforce certain standards to certify third party assisted~~
6 ~~living accreditation programs; requiring certain standards to authorize the~~
7 ~~acceptance of a certain survey as sufficient for compliance with certain licensure~~
8 ~~requirements; requiring that a certain survey be available for public review;~~
9 ~~requiring the assisted living program manager of a certain licensed facility to be~~
10 ~~certified by the Department; requiring the Department to approve a certain~~
11 ~~certification curriculum that includes certain training areas; providing that~~
12 ~~certain uncertified assistant living program managers obtain a certain~~
13 ~~certification by a certain date; providing for the renewal period of a certain~~
14 ~~certification; requiring the Department to adopt certain regulations; accept all~~

1 or part of a certain accrediting report as meeting the State licensing
 2 requirements for the renewal of a license to operate an assisted living facility
 3 program; prohibiting the Department from accepting all or part of a certain
 4 accrediting report as meeting the State licensing requirements for an initial
 5 license to operate an assisted living facility program; requiring an assisted
 6 living facility program to submit a certain report to the Department within a
 7 certain time period; requiring a certain report to be made available to the public
 8 on request; authorizing the Secretary of Health and Mental Hygiene to inspect
 9 certain assisted living facility programs for certain purposes; requiring the
 10 Department, in consultation with the assisted living industry to ~~develop a~~
 11 ~~certain methodology based on the actual cost of certain services~~ conduct a
 12 certain review, study certain costs, and consider certain reimbursement options;
 13 requiring the Department to submit a certain report on or before a certain date;
 14 requiring the Department to conduct a certain evaluation and submit a certain
 15 report to certain committees of the General Assembly on or before a certain date;
 16 providing for the effective date of certain provisions of this Act; providing for the
 17 termination of certain provisions of this Act; and generally relating to the
 18 certification of third party accreditation programs ~~and managers~~ of assisted
 19 living facilities.

20 BY repealing and reenacting, with amendments,
 21 Article - Health - General
 22 Section ~~19-1805(a)~~ 19-1805
 23 Annotated Code of Maryland
 24 (2000 Replacement Volume and 2002 Supplement)

25 BY repealing and reenacting, with amendments,
 26 Article - Health - General
 27 Section 19-1805
 28 Annotated Code of Maryland
 29 (2000 Replacement Volume and 2002 Supplement)
 30 (As enacted by Chapter 195 of the Acts of the General Assembly of 1999)

31 ~~BY adding to~~
 32 ~~Article - Health - General~~
 33 ~~Section 19-1807~~
 34 ~~Annotated Code of Maryland~~
 35 ~~(2000 Replacement Volume and 2002 Supplement)~~

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 37 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 19-1805.

3 (a) The Department shall:

4 (1) Define different levels of assisted living according to the level of care
5 provided;

6 (2) Require all assisted living programs to be licensed to operate
7 according to the level of the program;

8 (3) Develop a waiver process for authorizing an assisted living program
9 to continue to care for an individual whose medical or functional condition has
10 changed since admission to the program to an extent that the level of care required by
11 the individual exceeds the level of care for which the program is licensed;

12 (4) Promote affordable and accessible assisted living programs
13 throughout the State;

14 (5) Establish and enforce quality standards for assisted living programs;

15 (6) Require periodic inspections of assisted living program facilities,
16 including at least an annual unannounced on-site inspection;

17 (7) Establish requirements for the qualifications or training or both of
18 assisted living program employees;

19 (8) Establish a "resident bill of rights" for residents of assisted living
20 program facilities; {and}

21 (9) Define which, if any, assisted living programs may be exempt from
22 the requirements of § 19-311 of this title; ~~AND~~

23 ~~(10) ESTABLISH AND ENFORCE STANDARDS TO CERTIFY THIRD PARTY~~
24 ~~ASSISTED LIVING ACCREDITATION PROGRAMS THAT:~~

25 ~~(I) AUTHORIZE THE ACCEPTANCE OF THE RESULTS OF A~~
26 ~~CERTIFIED THIRD PARTY ACCREDITATION SURVEY AS SUFFICIENT FOR~~
27 ~~COMPLIANCE WITH ASSISTED LIVING PROGRAM LICENSURE REQUIREMENTS; AND~~

28 ~~(II) REQUIRE THE CERTIFIED THIRD PARTY ACCREDITATION~~
29 ~~SURVEY ACCEPTED BY THE DEPARTMENT TO BE AVAILABLE FOR PUBLIC REVIEW.~~

30 ~~19-1807.~~

31 ~~(A) THE ASSISTED LIVING PROGRAM MANAGER FOR A LICENSED FACILITY~~
32 ~~THAT IS LICENSED FOR GREATER THAN SEVEN BEDS SHALL BE CERTIFIED BY THE~~
33 ~~DEPARTMENT.~~

~~1 (B) (1) THE DEPARTMENT SHALL APPROVE THE ASSISTED LIVING PROGRAM
2 MANAGER CERTIFICATION CURRICULUM THAT INCLUDES THE FOLLOWING
3 TRAINING AREAS:~~

~~4 (I) FACILITY MANAGEMENT;~~

~~5 (II) CLINICAL AND SOCIAL ASPECTS OF ASSISTED LIVING; AND~~

~~6 (III) REGULATORY COMPLIANCE.~~

~~7 (2) WHEN REVIEWING CERTIFICATION PROGRAMS, THE DEPARTMENT
8 SHALL CONSIDER THE COSTS TO THE PROVIDER.~~

~~9 (C) (1) UNCERTIFIED ASSISTED LIVING PROGRAM MANAGERS SHALL
10 OBTAIN CERTIFICATION BY OCTOBER 1, 2006.~~

~~11 (2) THE ASSISTED LIVING PROGRAM MANAGER CERTIFICATION SHALL
12 BE RENEWED EVERY 2 YEARS.~~

~~13 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE
14 REQUIREMENTS OF THIS SECTION.~~

15 (B) (1) (I) THE SECRETARY MAY ACCEPT ALL OR PART OF A REPORT OF AN
16 APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING
17 REQUIREMENTS FOR THE RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING
18 FACILITY PROGRAM.

19 (II) THE SECRETARY MAY NOT ACCEPT ALL OR PART OF A REPORT
20 OF AN APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING
21 REQUIREMENTS FOR AN INITIAL LICENSE TO OPERATE AN ASSISTED LIVING
22 FACILITY PROGRAM.

23 (2) (I) THE ASSISTED LIVING FACILITY PROGRAM SHALL SUBMIT THE
24 REPORT OF AN ACCREDITING ORGANIZATION TO THE SECRETARY WITHIN 30 DAYS
25 OF THE RECEIPT OF THE REPORT BY THE ASSISTED LIVING FACILITY PROGRAM.

26 (II) THE REPORT OF AN ACCREDITING ORGANIZATION USED BY
27 THE DEPARTMENT AS MEETING THE STATE LICENSING REQUIREMENTS FOR
28 RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM
29 SHALL BE MADE AVAILABLE TO THE PUBLIC ON REQUEST.

30 (3) THE SECRETARY MAY INSPECT AN ASSISTED LIVING FACILITY
31 PROGRAM TO:

32 (I) INVESTIGATE A COMPLAINT;

33 (II) FOLLOW UP ON A SERIOUS PROBLEM IDENTIFIED BY AN
34 APPROVED ACCREDITING ORGANIZATION; OR

35 (III) VALIDATE FINDINGS OF AN APPROVED ACCREDITING
36 ORGANIZATION.

1 **[(b)] (C) (1)** In this subsection, "level of care 3 plus waiver" means a
2 resident-specific waiver granted by the Department under COMAR 10.07.14.10 for
3 an individual who resides in an assisted living facility licensed by the Department
4 and who is within one or more of the categories specified in COMAR 10.07.14.10(j).

5 **(2)** On or before December 15 of each year, the Department shall submit
6 to the Governor and, subject to § 2-1246 of the State Government Article, to the
7 General Assembly, a report concerning its experience with level of care 3 plus waivers
8 for the preceding 12-month period that ends on November 30.

9 **(3)** For each and all assisted living facilities, the report shall include:

10 **(i)** The total number of level of care 3 plus waivers requested from
11 and total granted by the Department;

12 **(ii)** The duration of each level of care 3 plus waiver and the average
13 duration of all level of care 3 plus waivers granted by the Department;

14 **(iii)** The total number of residents who were granted a level of care
15 3 plus waiver by the Department and remained at their assisted living facility under
16 that waiver; and

17 **(iv)** The total number of residents who were granted a level of care
18 3 plus waiver and were subsequently transferred.

19 **[(c)] (D) (1)** The Department, in consultation with representatives of the
20 affected industry and advocates for residents of the facilities and with the approval of
21 the Department of Aging and the Department of Human Resources, shall adopt
22 regulations to implement this subtitle.

23 **(2)** The regulations adopted under paragraph (1) of this subsection shall:

24 **(i)** Provide for the licensing of assisted living programs and the
25 renewal of licenses;

26 **(ii)** Require the Secretary to charge fees in a manner that will
27 produce funds not to exceed the actual direct and indirect costs to the Department for
28 inspecting assisted living program facilities and maintaining the licensure program
29 for assisted living programs under this subtitle;

30 **(iii)** Require the Department, during a survey or other inspection of
31 an assisted living program, to review the number of waivers granted to the program
32 under subsection (a)(3) of this section and determine whether a change in the
33 program's licensure status is warranted; and

34 **(iv)** Require an assisted living program facility to post in a
35 conspicuous place visible to actual and potential residents of the facility and other
36 interested parties;

1 REQUIREMENTS FOR RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING
2 FACILITY PROGRAM.

3 (II) THE SECRETARY MAY NOT ACCEPT ALL OR PART OF A REPORT
4 OF AN APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING
5 REQUIREMENTS FOR AN INITIAL LICENSE TO OPERATE AN ASSISTED LIVING
6 FACILITY PROGRAM.

7 (2) (I) THE ASSISTED LIVING FACILITY PROGRAM SHALL SUBMIT THE
8 REPORT OF AN ACCREDITING ORGANIZATION TO THE SECRETARY WITHIN 30 DAYS
9 OF THE RECEIPT OF THE REPORT BY THE ASSISTED LIVING FACILITY PROGRAM.

10 (II) THE REPORT OF AN ACCREDITING ORGANIZATION USED BY
11 THE DEPARTMENT AS MEETING THE STATE LICENSING REQUIREMENTS FOR
12 RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM
13 SHALL BE MADE AVAILABLE TO THE PUBLIC ON REQUEST.

14 (3) THE SECRETARY MAY INSPECT AN ASSISTED LIVING FACILITY
15 PROGRAM TO:

16 (I) INVESTIGATE A COMPLAINT;

17 (II) FOLLOW UP ON A SERIOUS PROBLEM IDENTIFIED BY AN
18 APPROVED ACCREDITING ORGANIZATION; OR

19 (III) VALIDATE FINDINGS OF AN APPROVED ACCREDITING
20 ORGANIZATION.

21 [(b)] (C) (1) The Department, in consultation with representatives of the
22 affected industry and advocates for residents of the facilities and with the approval of
23 the Department of Aging and the Department of Human Resources, shall adopt
24 regulations to implement this subtitle.

25 (2) The regulations adopted under paragraph (1) of this subsection shall:

26 (i) Provide for the licensing of assisted living programs and the
27 renewal of licenses;

28 (ii) Require the Secretary to charge fees in a manner that will
29 produce funds not to exceed the actual direct and indirect costs to the Department for
30 inspecting assisted living program facilities and maintaining the licensure program
31 for assisted living programs under this subtitle;

32 (iii) Require the Department, during a survey or other inspection of
33 an assisted living program, to review the number of waivers granted to the program
34 under subsection (a)(3) of this section and determine whether a change in the
35 program's licensure status is warranted; and

1 (iv) Require an assisted living program facility to post in a
 2 conspicuous place visible to actual and potential residents of the facility and other
 3 interested parties:

4 1. A. Its statement of deficiencies for the most recent
 5 survey;

6 B. Any subsequent complaint investigations conducted by
 7 federal, State, or local surveyors; and

8 C. Any plans of correction in effect with respect to the survey
 9 or complaint investigation; or

10 2. A notice of the location, within the facility, of the items
 11 listed in item 1 of this item.

12 ~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That the Department of
 13 Health and Mental Hygiene, in consultation with the assisted living industry, shall
 14 develop a methodology to establish review its current payment rates, study the costs
 15 of providing services, and consider reimbursement options including an annual
 16 rate-setting formula based on the actual cost for assisted living services under
 17 COMAR 10.09.54.00. The Department shall submit a report regarding this
 18 methodology its findings to the General Assembly, in accordance with § 2-1246 of the
 19 State Government Article, on or before January 1, 2004.

20 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
 21 Health and Mental Hygiene shall conduct an evaluation of assisted living services in
 22 Maryland, in consultation with assisted living consumers and providers, and submit a
 23 report, in accordance with § 2-1246 of the State Government Article, to the Senate
 24 Finance Committee and the House Health and Government Operations Committee on
 25 or before January 1, 2004. The report shall include recommendations relating to:

26 (a) small and large providers of assisted living facilities;

27 (b) the certification of assisted living facility managers; and

28 (c) quality standards for specialized assisted living facilities, including
 29 facilities with Alzheimer's units.

30 ~~SECTION 5.~~ AND BE IT FURTHER ENACTED, That Section 1 of this Act
 31 shall take effect October 1, 2003. It shall remain effective until the taking effect of
 32 Section 2 of this Act. If Section 2 of this Act takes effect, Section 1 of this Act shall be
 33 abrogated and of no further force and effect.

34 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act
 35 shall take effect October 1, 2004, the effective date of Chapter 195 of the Acts of the
 36 General Assembly of 1999. If the effective date of Chapter 195 is amended, Section 2
 37 of this Act shall take effect on the taking effect of Chapter 195.

1 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the
2 provisions of Sections 5 and 6 of this Act, this Act shall take effect October 1, 2003.